

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

TRAVELL MARTECE WOLFE, Petitioner, vs. UNITED STATES OF AMERICA, Respondent.	4:21-CV-04040-KES ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING MOTION TO DISMISS
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Petitioner, Travell Martece Wolfe, filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody. The court referred the motion to Magistrate Judge Veronica Duffy. The United States moved to dismiss the action for failure to state a claim. Docket 18. Wolfe did not respond. On September 20, 2021, Magistrate Judge Duffy submitted a report and recommended that Wolfe's petition be dismissed and respondent's motion to dismiss be granted. The time for objections has passed. No objections to the report and recommendation have been filed under 28 U.S.C. § 2254, Rule 8(b)(3). The court has considered the case de novo and adopts the report and recommendation in full. Therefore, it is

ORDERED that the magistrate judge's report and recommendation (Docket 20) is adopted in full and respondent's motion to dismiss (Docket 18) is granted.

IT IS FURTHER ORDERED that based upon the reasons set forth herein and pursuant to Fed. R. App. P. 22(b), the court finds that petitioner has not made a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Therefore, a certificate of appealability is denied.

Dated November 2, 2021.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE